

PATENT APPLICATION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

Docket No: Q88256

Hiroaki YAMADA, et al.

Appln. No.: 10/539,010

Group Art Unit: 2839

Confirmation No.: 7398

Examiner: Vladimir IMAS

Filed: June 15, 2005

For: CASSETTE RELAY BLOCK ATTACHEMENT STRUCTURE

REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.41, Appellant respectfully submits this Reply Brief in response to the Examiner's Answer dated February 26, 2008. Entry of this Reply Brief is respectfully requested.

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STATUS OF CLAIMS

The instant application was originally filed with claims 1-9. Claims 3-9 were amended and claims 10-22 added in a preliminary amendment filed June 15, 2005. Thus, claims 1-22 are currently pending in the instant application. No amendments have been submitted after the final rejection and all amendments have been entered.

Claims 1-22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Akiyama, et al. (U.S. 6,022,247).

The rejection of claims 1-22 is being appealed.

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GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Akiyama, et al. (U.S. 6,022,247).

ARGUMENT

Most of the arguments set forth in the Examiner's Answer mailed January 30, 2008 are dealt with fully in Appellant's Brief on Appeal, but Appellant requests that the following additional remarks be considered.

With regard to claims 1-22, the Examiner continues to allege that Akiyama discloses all of the elements of the claims. Appellants respectfully disagree.

With regard to claim 1, the Examiner argues that wall element 6a is an outermost wall surface of the relay block 4 and therefore the lock portion 6b is inward of an outermost wall surface of the cassette relay block.¹

With regard to claims 2, the Examiner argues that Akiyama discloses that "once relay 4 is attached to cavity 2a, the relay (not shown) can be inserted into the relay block and the body of relay block will have projected area larger than cavity and will house the lock portion 7 and locked portion 6."²

Finally, with regard to claim 3, the Examiner argues that Akiyama discloses that "lock portion 7 is arranged in a range surrounded by crossing outer wall surfaces of the terminal housing part."³ Appellants will address each of these in turn.

¹ See Examiner's Reply, page 5, citing U.S. Patent 6,022,247 to Akiyama et al., FIGS. 1 and 5.

² *Id.* at pages 5-6, citing Akiyama, FIG. 2.

³ *Id.* at page 6, citing Akiyama, FIGS. 1, 2 and 5.

Firstly, with respect to claim 1, the Examiner argues that wall element 6a is an outermost wall surface of the relay block 4 and therefore the lock portion 6b is inward of an outermost wall surface of the cassette relay block. However, as noted in Appellant's Appeal Brief, Akiyama's lock claws 6, which include engaging wall 6a and securing lance 6b, are at "given positions on the respective outside portions of the cassette blocks 3, 4."⁴ Miriam-Webster defines "outside" as being "a place or region beyond an enclosure or boundary."⁵ Thus, Akiyama clearly considers the lock claws 6 to be beyond the walls of the cassette blocks. In other words, based on the Akiyama disclosure, engaging wall 6a cannot be the outermost wall of the cassette block, as alleged by the Examiner. Therefore, because Akiyama fails to disclose each of the elements of claim 1, claim 1 is patentable over the applied art. Claims 2-22 are patentable at least by virtue of their dependency from claim 1.

Secondly, with respect to claim 2, the Examiner argues "once relay 4 is attached to cavity 2a, the relay (not shown) can be inserted into the relay block and the body of relay block will have projected area larger than cavity and will house the lock portion 7 and locked portion 6." The Examiner appears to be drawing an unsubstantiated conclusion with regard to claim 2. Specifically, the Examiner appears to be alleging that the placement of the relay with regard to the lock portion and locked portion cited in claim 2 is inherently disclosed by Akiyama. "Inherency, however may not be established by probabilities or possibilities. The mere fact that

⁴ See Appeal Brief, page 10, citing Akiyama, col. 5, lines 9-12.

⁵ Miriam-Webster Online Dictionary.

a certain thing may result from a given set of circumstances is not sufficient.”⁶ In the instant application, the Examiner simply indicates that the lock portion and the locked portion *might be* “housed in the projected area of a relay attached to said cassette relay block” as recited in claim 2, but provides no support for the conclusion. Therefore, because the Examiner cannot establish that Akiyama clearly discloses the subject matter of claim 2, claim 2 is patentable for reasons independent of its dependency.

Thirdly, with regard to claim 3, the Examiner argues that Akiyama discloses that “lock portion 7 is arranged in a range surrounded by crossing outer wall surfaces of the terminal housing part 2.” Claim 3 requires that the lock portion be surrounded by crossing outer wall surfaces of the terminal housing parts located on *the cassette relay block*. Element 7, a securing rib, disclosed in Akiyama is disposed such that the rib engages lock claw 6. However, element 7 engages lock claw 6 at a center portion of the outer walls of the cassette block, it cannot be arranged in a range surrounded by crossing outer wall surfaces as recited in claim 3. Element 2, cited by the Examiner as disclosing the crossing out wall surfaces, refers to the block main body, not the cassette relay block, also as recited in claim 1. Therefore, elements 2 and 7 disclosed in Akiyama cannot disclose all of the elements of claim 3 as argued by the Examiner. Thus, claim 3 is patentable for reasons independent of its dependency.

⁶ Continental Can Co. USA Inc. v. Monsanto Co., 948 F.2d 1264, 1269 (Fed. Cir. 1991) (citing In re Oelrich, 666 F.2d 578, 581 (Fed. Cir. 1981) (quoting Hansgirg v. Kemmer, 102 F.2d 212, 214 (C.C.P.A. 1939))) (emphasis in original); see also Scaltech Inc. v. Retec/Tetra L.L.C., 51 U.S.P.Q.2d 1055, 1059 (Fed. Cir. 1999); and In re Robertson, 49 U.S.P.Q.2d 1949, 1950-51 (Fed. Cir. 1999).

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CONCLUSION

For the above reasons as well as the reasons set forth in Appeal Brief, Appellant respectfully requests that the Board reverse the Examiner's rejections of all claims on Appeal. An early and favorable decision on the merits of this Appeal is respectfully requested.

Respectfully submitted,

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